

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

NICOLE PLAZA

Applicant for Registered Nurse License

Respondent

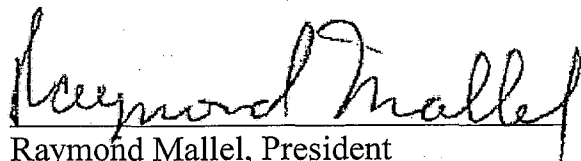
Case No. 2012 – 274

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **August 30, 2012.**

IT IS SO ORDERED **July 31, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
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Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues
11 Against:

Case No. 2012-274

12 **NICOLE ATIENZA PLAZA**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

13 29318 Gary Drive
14 Canyon Country, CA 91387

15 Applicant for RN Licensure by Exam

16 Respondent.

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Statement of Issues.

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
24 of Registered Nursing. She brought this action solely in her official capacity and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Katherine
26 Messana, Deputy Attorney General.

27 2. Respondent Nicole Atienza Plaza ("Respondent") is represented in this proceeding by
28 attorney Paul Chan, whose address is:

1 The Law Offices of Paul Chan
2 400 Capitol Mall, Suite 2545
3 Sacramento, CA 95814

4 3. On or about March 16, 2011, Respondent filed an application dated March 10, 2011,
5 with the Board of Registered Nursing to obtain an Application for Licesure by Examination to
6 obtain her Registered Nurse License.

7 **JURISDICTION**

8 4. Statement of Issues No. 2012-274 was filed before the Board of Registered Nursing
9 ("Board"), Department of Consumer Affairs, and is currently pending against Respondent. The
10 Statement of Issues and all other statutorily required documents were properly served on
11 Respondent on November 8, 2011. A copy of Statement of Issues No. 2012-274 is attached as
12 **Exhibit A** and incorporated herein by reference.

13 **ADVISEMENT AND WAIVERS**

14 5. Respondent has carefully read, fully discussed with counsel, and understands the
15 charges and allegations in Statement of Issues No. 2012-274. Respondent has also carefully read,
16 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
17 Disciplinary Order.

18 6. Respondent is fully aware of her legal rights in this matter, including the right to a
19 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
20 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
21 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas
22 to compel the attendance of witnesses and the production of documents; the right to
23 reconsideration and court review of an adverse decision; and all other rights accorded by the
24 California Administrative Procedure Act and other applicable laws.

25 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
26 every right set forth above.

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1 CULPABILITY

2 8. Respondent admits the truth of each and every charge and allegation in Statement of
3 Issues No. 2012-274.

4 9. Respondent agrees that her Application for Licensure by Examination is subject to
5 denial and she agrees to be bound by the Board's probationary terms as set forth in the
6 Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Respondent understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Respondent or her counsel. By signing the
12 stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek
13 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
14 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
15 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
16 action between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.
27
28

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED

1. The application of Respondent Nicole Atienza Plaza for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Respondent. Said license shall immediately be revoked, the order of revocation stayed and Respondent placed on probation for a period of three (3) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Respondent shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Respondent to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Respondent shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Respondent is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Respondent shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Respondent shall inform the Board in writing within no

1 more than 15 days of any address change and shall at all times maintain an active, current license
2 status with the Board, including during any period of suspension.

3 Upon successful completion of probation, Respondent's license shall be fully restored.

4 3. **Report in Person.** Respondent, during the period of probation, shall appear in
5 person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency or
7 practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Respondent's probation is tolled, if and when she resides outside of
9 California. Respondent must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Respondent shall provide a list of all states and territories where she has ever been licensed
13 as a registered nurse, vocational nurse, or practical nurse. Respondent shall further provide
14 information regarding the status of each license and any changes in such license status during the
15 term of probation. Respondent shall inform the Board if she applies for or obtains a new nursing
16 license during the term of probation.

17 5. **Submit Written Reports.** Respondent, during the period of probation, shall submit
18 or cause to be submitted such written reports/declarations and verification of actions under
19 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
20 relative to Respondent's compliance with all the conditions of the Board's Probation Program.
21 Respondent shall immediately execute all release of information forms as may be required by the
22 Board or its representatives.

23 Respondent shall provide a copy of this Decision to the nursing regulatory agency in every
24 state and territory in which she has a registered nurse license.

25 6. **Function as a Registered Nurse.** Respondent, during the period of probation, shall
26 engage in the practice of registered nursing in California for a minimum of 24 hours per week for
27 6 consecutive months or as determined by the Board.

28 For purposes of compliance with the section, "engage in the practice of registered nursing"

1 may include, when approved by the Board, volunteer work as a registered nurse, or work in any
2 non-direct patient care position that requires licensure as a registered nurse.

3 The Board may require that advanced practice nurses engage in advanced practice nursing
4 for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

5 If Respondent has not complied with this condition during the probationary term, and
6 Respondent has presented sufficient documentation of her good faith efforts to comply with this
7 condition, and if no other conditions have been violated, the Board, in its discretion, may grant an
8 extension of Respondent's probation period up to one year without further hearing in order to
9 comply with this condition. During the one year extension, all original conditions of probation
10 shall apply.

11 7. **Employment Approval and Reporting Requirements.** Respondent shall obtain
12 prior approval from the Board before commencing or continuing any employment, paid or
13 voluntary, as a registered nurse. Respondent shall cause to be submitted to the Board all
14 performance evaluations and other employment related reports as a registered nurse upon request
15 of the Board.

16 Respondent shall provide a copy of this Decision to her employer and immediate
17 supervisors prior to commencement of any nursing or other health care related employment.

18 In addition to the above, Respondent shall notify the Board in writing within seventy-two
19 (72) hours after she obtains any nursing or other health care related employment. Respondent
20 shall notify the Board in writing within seventy-two (72) hours after she is terminated or
21 separated, regardless of cause, from any nursing, or other health care related employment with a
22 full explanation of the circumstances surrounding the termination or separation.

23 8. **Supervision.** Respondent shall obtain prior approval from the Board regarding
24 Respondent's level of supervision and/or collaboration before commencing or continuing any
25 employment as a registered nurse, or education and training that includes patient care.

26 Respondent shall practice only under the direct supervision of a registered nurse in good
27 standing (no current discipline) with the Board of Registered Nursing, unless alternative methods
28 of supervision and/or collaboration (e.g., with an advanced practice nurse or physician) are

1 approved.

2 Respondent's level of supervision and/or collaboration may include, but is not limited to the
3 following:

4 (a) Maximum - The individual providing supervision and/or collaboration is present in
5 the patient care area or in any other work setting at all times.

6 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
7 care unit or in any other work setting at least half the hours Respondent works.

8 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
9 person communication with Respondent at least twice during each shift worked.

10 (d) Home Health Care - If Respondent is approved to work in the home health care
11 setting, the individual providing supervision and/or collaboration shall have person-to-person
12 communication with Respondent as required by the Board each work day. Respondent shall
13 maintain telephone or other telecommunication contact with the individual providing supervision
14 and/or collaboration as required by the Board during each work day. The individual providing
15 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
16 patients' homes visited by Respondent with or without Respondent present.

17 9. **Employment Limitations.** Respondent shall not work for a nurse's registry, in any
18 private duty position as a registered nurse, a temporary nurse placement agency, a traveling nurse,
19 or for an in-house nursing pool.

20 Respondent shall not work for a licensed home health agency as a visiting nurse unless the
21 registered nursing supervision and other protections for home visits have been approved by the
22 Board. Respondent shall not work in any other registered nursing occupation where home visits
23 are required.

24 Respondent shall not work in any health care setting as a supervisor of registered nurses.
25 The Board may additionally restrict Respondent from supervising licensed vocational nurses
26 and/or unlicensed assistive personnel on a case-by-case basis.

27 Respondent shall not work as a faculty member in an approved school of nursing or as an
28 instructor in a Board approved continuing education program.

Respondent shall work only on a regularly assigned, identified and predetermined worksite(s) and shall not work in a float capacity.

If Respondent is working or intends to work in excess of 40 hours per week, the Board may request documentation to determine whether there should be restrictions on the hours of work.

10. **Complete a Nursing Course(s).** Respondent, at her own expense, shall enroll and successfully complete a course(s) relevant to the practice of registered nursing no later than six months prior to the end of her probationary term.

Respondent shall obtain prior approval from the Board before enrolling in the course(s). Respondent shall submit to the Board the original transcripts or certificates of completion for the above required course(s). The Board shall return the original documents to Respondent after photocopying them for its records.

11. **Violation of Probation.** If Respondent violates the conditions of her probation, the Board after giving Respondent notice and an opportunity to be heard, may set aside the stay order and impose the stayed discipline (revocation/suspension) of Respondent's license.

If during the period of probation, an accusation or petition to revoke probation has been filed against Respondent's license or the Attorney General's Office has been requested to prepare an accusation or petition to revoke probation against Respondent's license, the probationary period shall automatically be extended and shall not expire until the accusation or petition has been acted upon by the Board.

12. **License Surrender.** During Respondent's term of probation, if she ceases practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of probation, Respondent may surrender her license to the Board. The Board reserves the right to evaluate Respondent's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances, without further hearing. Upon formal acceptance of the tendered license and wall certificate, Respondent will no longer be subject to the conditions of probation.

Surrender of Respondent's license shall be considered a disciplinary action and shall become a part of Respondent's license history with the Board. A registered nurse whose license

1 has been surrendered may petition the Board for reinstatement no sooner than the following
2 minimum periods from the effective date of the disciplinary decision:

3 (1) Two years for reinstatement of a license that was surrendered for any reason other
4 than a mental or physical illness; or

5 (2) One year for a license surrendered for a mental or physical illness.

6 13. **Therapy or Counseling Program.** Respondent, at her expense, shall participate in an
7 on-going counseling program until such time as the Board releases her from this requirement and
8 only upon the recommendation of the counselor. Written progress reports from the counselor will
9 be required at various intervals.

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1 ACCEPTANCE

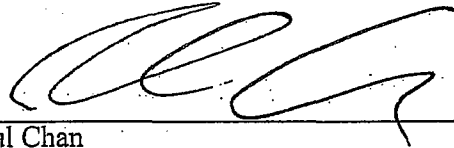
2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Paul Chan. I understand the stipulation and the effect it will have
4 on my Applicant for RN Licensure by Exam. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Board of Registered Nursing.

7
8 DATED: 12/28/2011


9 NICOLE PLAZA
Respondent

10 I have read and fully discussed with Respondent Nicole Plaza the terms and conditions and
11 other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve its
12 form and content.

13 DATED: 1/3/2012


14 Paul Chan
Attorney for Respondent

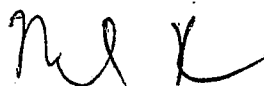
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16 ENDORSEMENT

17 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
18 submitted for consideration by the Board of Registered Nursing of the Department of Consumer
19 Affairs.

20
21 Dated:

Respectfully submitted,

22 KAMALA D. HARRIS
Attorney General of California
23 GLORIA A. BARRIOS
Supervising Deputy Attorney General

24 
25 MICHAEL BROWN
26 Deputy Attorney General
Attorneys for Complainant

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28 51033184.doc

Exhibit A

Statement of Issues No. 2012-274

1 KAMALA D. HARRIS
Attorney General of California
2 GLORIA A. BARRIOS
Supervising Deputy Attorney General
3 MICHAEL BROWN
Deputy Attorney General
4 State Bar No. 231237
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E-mail: MichaelB.Brown@doj.ca.gov
7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues
12 Against:

13 **NICOLE ATIENZA PLAZA**
14 **29318 Gary Drive**
15 **Canyon Country, CA 91387**

16 **Applicant for RN Licensure by Exam**

17 **Respondent.**

Case No. **2012 - 274**
STATEMENT OF ISSUES

18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Statement of Issues solely in
21 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about March 16, 2011, the Board of Registered Nursing, Department of
24 Consumer Affairs (Board) received an application for Licensure by Exam from Nicole Atienza
25 Plaza (Respondent). On or about March 10, 2011, Nicole Plaza certified under penalty of perjury
26 to the truthfulness of all statements, answers, and representations in the application. The Board
27 denied the application on May 7, 2011.

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JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

4. Section 480 states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

"(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

"(2) Done any act involving dishonesty, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license."

5. Section 2736 of the Code provides, in pertinent part, that the Board may deny a license when it finds that the applicant has committed any acts constituting grounds for denial of licensure under section 480 of that code.

6. Section 2761 states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

....

"(f) Conviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

1 REGULATORY PROVISIONS

2 7. California Code of Regulations, title 16, section 1444, states:

3 "A conviction or act shall be considered to be substantially related to the qualifications,
4 functions or duties of a registered nurse if to a substantial degree it evidences the present or
5 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
6 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

7

8 "(c) Theft, dishonesty, fraud, or deceit.

9 FIRST CAUSE FOR DENIAL OF APPLICATION

10 (Criminal Conviction)

11 8. Respondent's application is subject to denial under sections 2736, 2761, subdivision
12 (f), and 480, subdivision (a)(1), in conjunction with California Code of Regulations, title 16,
13 section 1444, subdivision (c), on the grounds of unprofessional conduct, in that Respondent was
14 convicted of a crime substantially related to the qualifications, functions or duties of a registered
15 nurse applicant, as follows:

16 a. On or about December 30, 2010, after pleading nolo contendere, Respondent was
17 convicted of one misdemeanor count of violating Penal Code section 459 [burglary], in the
18 criminal proceeding entitled *The People of the State of California vs. Nicole Atienza Plaza*
19 (Super. Ct. Los Angeles County, 2010, No. ONW03891). The Court placed Respondent on
20 probation for a period of 3 years with certain terms and conditions, pay fines and to perform 10
21 days of community service with Cal-Trans. The circumstances surrounding the conviction are
22 that on or about October 24, 2010, Respondent went to Best Buy Department Store in Saugus,
23 California and stole a Camera costing \$1800.00 and exited the store without paying for the
24 camera.

25 SECOND CAUSE FOR DENIAL OF APPLICATION

26 (Dishonesty, Fraud or Deceit)

27 9. Respondent's application is subject to denial under section 480, subdivision (a)(2), on
28 the grounds of unprofessional conduct, in that Respondent committed a dishonest act, fraud or

1 deceit with the intent to substantially benefit herself, or substantially injure another. Complainant
2 refers to, and by this reference incorporates, the allegations set forth above in paragraph 8,
3 subparagraph (a), inclusive, as set forth fully herein.

4 **THIRD CAUSE FOR DENIAL OF APPLICATION**

5 **(Acts Which Would Constitute Grounds for Discipline Against a Licensee)**

6 10. Respondent's application is subject to denial under sections 480, subdivision (a)(3)
7 and 2761, subdivision (f), in that Respondent committed acts which, if committed by a licensed
8 registered nurse, would be grounds for suspension or revocation of the license. Complainant
9 refers to, and by this reference incorporates, the allegations set forth above in paragraph 8,
10 subparagraph (a), inclusive, as set forth fully herein.

11 **PRAYER**

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board issue a decision:

- 14 1. Denying the application of Nicole Atienza Plaza for an RN Licensure by Exam; and
15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: October 31, 2011

17 *for* LOUISE R. BAILEY, M.ED., RN
18 Executive Officer
19 Board of Registered Nursing
20 Department of Consumer Affairs
21 State of California
22 Complainant

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25 statement of issues.rtf
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